THE HONOURABLE SRI JUSTICE D.S.R.VARMA
AND
THE HONOURABLE SRI JUSTICE K.C.BHANU

WRIT PETITION No.24287 OF 2007

Dated: 26.11.2007

Between:

L.Gundal Reddy

…Petitioner

And

S.Venkateswarlu and two others.

…Respondents

THE HONOURABLE SRI JUSTICE D.S.R.VARMA
AND
THE HONOURABLE SRI JUSTICE K.C.BHANU

WRIT PETITION No.24287 of 2007

ORAL ORDER: **(per the HON'BLE SRI JUSTICE D.S.R.VARMA)**

Heard the learned counsel appearing for the petitioner, the learned counsel appearing for the respondent No.1 and the learned Government Pleader, appearing for the respondent Nos.2 and 3.

2. Questioning the interim order, dated 30.10.2007, passed by the Andhra Pradesh Administrative Tribunal at Hyderabad (for brevity "the Tribunal"), in O.A.No.6613 of 2007, filed by the respondent No.1 herein, suspending the Government Memo.No.17921/Ex.1(1)/2006-10, dated 26.09.2007, the present writ petition has been filed.

3. The factual background of the case, in brief, is that by virtue of the judicial intervention, at various stages, in the past, the

final seniority list in the category of Excise Inspectors had been prepared in 2002. After such seniority list has been prepared, both the petitioner and the respondent No.1 made representations before the competent authority i.e., the Government, and the same were rejected.

4. It appears that appeals have also been preferred before the competent authority i.e., the Government, as against their placements in the seniority, along with other incidental subjects like information as regards the substantive vacancies, and since those appeals were not being disposed of by the Government, the petitioner filed O.A.No.2321 of 2006 and the respondent No.1 filed O.A.No.6487 of 2006, which were disposed of by the Tribunal directing the Government to dispose of the said appeals, filed by the petitioner and the respondent No.1 together.

5. Consequent upon the said orders, passed by the Tribunal, the Government had taken up the exercise of disposing of the appeals and, while considering them, without taking into consideration the ground taken by the petitioner, passed final order, dated 26.09.2007, declaring the number of substantive vacancies as '34' instead of the originally assessed '35' vacancies.

6. But, the *inter se* dispute between the petitioner and the respondent No.1 was not touched upon, as a result, in order to proceed with further, pursuant to the above said order, a show cause notice, dated 06.10.2007, was issued, calling for objections from the affected parties. It is the notice, dated 06.10.2007, along with the order, dated 26.09.2007, passed by the Government, assessing the number of vacancies, which was challenged before the Tribunal in O.A.No.6613 of 2007.

7. The Tribunal, upon considering the facts, on record, passed the interim order, referred to above, suspending the Memo No.17921/Ex.1(1)/2006-10, dated 26.09.2007, issued by the Government.

8. Learned counsel appearing for the petitioner submits that by virtue of the Government Memo, dated 26.09.2007, which was impugned before the Tribunal in O.A.No.6613 of 2007, and the interlocutory order, dated 30.10.2007, passed by the Tribunal, the entire seniority list, which had already become final, way back in 2002, is likely to be subjected to further revision.

9. On the other hand, learned counsel appearing for the respondent No.1 submits that when the Government had already finalized the seniority list in the year 2002 itself, there is no valid reason for the Government to revise the same, once again, at this length of time, which affects the seniority of the respondent No.1.

10. In view of the rival contentions of the learned counsel, appearing for both parties, it appears that the seniority list had already been finalized in the year 2002 and, of course, if there is any grievance, for any employee(s), as regards *inter se* among the employees, the same can be ventilated in an appropriate manner, which will be considered, at an appropriate level.

11. When the grievances are expressed by both the parties by way of filing appeals before the Government, for taking a provisional decision, which affects the seniority list, it may not be appropriate for the Government to call for the objections, at this length of time. However, we are not going to express any view on this issue.

12. In other words, it shall not be understood that this Court has expressed any view on this issue. However, we make it clear that appropriate orders can be passed, at an appropriate stage, by the competent authority.

13. While the things are almost settled, two individuals have approached the Tribunal, aggrieved by the orders of the Government, particularly when the Government had taken a decision and consequent upon which, the Commissioner had called for the objections, if any, from the affected parties, it is obligatory on the part of the affected parties, particularly the

respondent No.1 and the petitioner as well, to offer their objections, if any, within a period of fifteen days from the date of receipt of a copy of this order. Till such objections, as called for by the Commissioner, respondent No.3, are filed by the petitioner and the respondent No.1 as well, no final decision can be arrived at by the competent authority.

14. Even assuming that any decision has been indicated in any of the orders, which are under challenge before the Tribunal, or before this Court, they shall be treated only as a provisional decision, but not a conclusive one.

15. In order to resolve this issue or controversy, it may not really require the parties to approach the Tribunal, much less this Court, for the above said reasons.

16. Therefore, we feel it appropriate to close the writ petition, with a direction to the respondent Nos.2 and 3 to take a final decision on the Show Cause Notice, dated 06.10.2007, vide Cr.No.14031/2004/CPE/03, and communicate the same to the parties. The said exercise shall be done by the Government, with utmost expedition and, on priority basis, preferably within a period of four months from the date of receipt of a copy of this order.

17. However, we make it clear that till such final decision is taken by the Government, status quo shall be maintained insofar as the seniority of the petitioner as well as the respondent No.1 is concerned and the continuance of both the parties by virtue of this order of status quo shall not confer any right on them in future.

18. With the above observations and directions, the writ petition is closed, at the stage of admission. However, there shall be no order as to costs.

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JUSTICE D.S.R.VARMA

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JUSTICE K.C.BHANU

26TH NOVEMBER 2007
DR